

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

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MAR 20 2003

Oil Conservation Division

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR AN ORDER
DETERMINING THE RESPONSIBLE PARTY OR PARTIES AND ORDERING
THE RESPONSIBLE PARTY OR PARTIES TO COMPLETE AND PERFORM
AN ABATEMENT PLAN PURSUANT TO OCD RULE 19; LEA COUNTY, NEW
MEXICO**

CASE NO. 13061

APPLICATION FOR COMPLIANCE ORDER

1. In January of 1999, OCD began an investigation of salt contamination of soils from a produced-water-line leak within the South Langlie Jal Unit, located in Sections 7, 8, 17 & 18, Township 25 South, Range 37 East, Lea County, New Mexico. The surface owner, Mr. Clay Osborn, reported that the drinking water well at his residence was contaminated with salts. Additional soil and ground water contamination investigations were conducted through March 20, 2000. Investigations have shown that ground water in the Osborn private drinking water well and monitor wells on the South Langlie Jal Unit is contaminated with chlorides and total dissolved solids in excess of New Mexico Water Quality Control Commission standards. Investigations have also shown that there are tank batteries with associated produced water and petroleum spills, an unlined flare pit and produced water line leaks located hydrologically upgradient from some of these wells.

2. Bristol Resources Corporation (Bristol) was the operator of the South Langlie Jal Unit when the investigations commenced in 1999. Pursuant to OCD Rule

19.C, on August 2, 2000, the OCD required that Bristol submit an "Abatement Plan" for the South Langlie Jal Unit to investigate and abate ground water pollution.

3. On September 15, 2000, Chaparral Oil, LLC and CEI Bristol Acquisition, LP (Chaparral) purchased Bristol's assets at a bankruptcy auction and assumed operation of the South Langlie Jal Unit. On October 31, 2000, the OCD notified Chaparral that, as the current operator, Chaparral was required to submit an "Abatement Plan" for the South Langlie Jal Unit to investigate and abate ground water pollution.

4. On March 12, 2001, the OCD issued a Notice of Violation to Chaparral for the failure to submit an Abatement Plan as required. On March 23, 2001, Chaparral submitted a Stage 1 Abatement Plan Proposal for the investigation of the extent of contamination on the South Langlie Jal Unit. Public notice of the proposal was issued in the fall of 2001. On February 22, 2002, the OCD issued Chaparral a Notice of Violation for failure to submit information to correct deficiencies in the Stage 1 Abatement Plan Proposal. Chaparral subsequently amended the proposal several times.

5. On April 25, 2002, the OCD administratively approved the Stage 1 Abatement Plan Proposal. At Chaparral's request, in order to negotiate access to conduct the required investigations, OCD issued an extension of the deadline for submission of a Stage 1 Investigation Report from July 31, 2002 to October 31, 2002.

6. On November 7, 2002, Chaparral notified the OCD that the South Langlie Jal Unit had been sold to Ricky Smith Oil & Gas Corporation. On January 13, 2003, OCD issued a Notice of Violation pursuant to Rule 19.C(2) to both Chaparral and Smith & Marrs, Inc. ("Smith & Marrs"), an affiliate of Ricky Smith Oil & Gas Corporation, who is operating the South Langlie Jal Unit, for failure to conduct the actions required by

Rule 19, and required that they submit a Stage 1 Investigation Report by February 17, 2003. To date, the OCD has not received a response from either Chaparral or Smith and Marrs.

7. OCD Rule 19.c(2) [19.15.1.19.C(2) [NMAC] provides:

(2) In the event of a transfer of the ownership, control or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the duration of the abatement plan, and may jointly share the responsibility to conduct the actions required by Section 19.15.1.19 NMAC with other responsible persons. The transferor shall notify the transferee in writing, at least thirty (30) days prior to the transfer, that abatement plan has been required or approved for the facility, and shall deliver or send by certified mail to the Director a copy of such notification together with a certificate or other proof that such notification has in fact been received by the transferee. The transferor and transferee may agree to a designated responsible person who shall assume the responsibility to conduct the actions required by Section 19.15.1.19 NMAC. The responsible persons shall notify the Director in writing if a designated responsible person is agreed upon. If the Director determines that the designated responsible person has failed to conduct the actions required by Section 19.15.1.19 NMAC, the Director shall notify all responsible persons of this failure in writing and allow them thirty (30) days, or longer for good cause shown, to conduct the required actions before setting a show cause hearing requiring those responsible persons to appear and show cause why they should not be ordered to comply, a penalty should not be assessed, a civil action should not be commenced in district court or any other appropriate action should not be taken by the Division.

8. OCD Rule 7.R(5) [19.15.1.7.R(5) NMAC] provides:

(5) Responsible Person shall mean the owner or operator who must complete Division approved corrective action for pollution from releases.

9. Following the January 13, 2003 notice described above, neither Chaparral nor Smith & Marrs submitted a Stage I Investigation Report as directed, nor has either requested an extension of the February 17, 2003 deadline for such submittal or otherwise indicated an intention or purpose to comply.

WHEREFORE, the Chief of the Environmental Bureau of the Division hereby applies to the Director to enter an order:

- A. Determining that Chaparral and Smith & Marrs are responsible persons with respect to the subsurface water pollution herein described, and, as such, are required by Rule 19 to complete performance of the Stage I Abatement Plan and thereafter to submit and perform a Stage II Abatement Plan as provided in rule.
- B. Ordering each of said responsible persons, or both of them jointly, to submit a Stage I Investigation Report for approval by the Division by a date fixed in said order.
- C. Imposing civil penalties on each of said responsible persons for failure to comply with Rule 19.C(2) and with the terms of the January 13, 2003 notice.
- D. For such other and further relief as the Division deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,



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